

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 04-80418

JAMES FRANK WHITE,

HON. AVERN COHN

Defendant.

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ORDER DENYING MOTION FOR RECONSIDERATION

This is a criminal case. On January 27, 2005, defendant was convicted, following a guilty plea, to conspiracy to tamper with a witness by attempted killing, in violation of 18 U.S.C. § 1512(a)(1)(c) and § 1512 (k). Defendant was sentenced to 108 months imprisonment. Defendant did not file a direct appeal.

On January 12, 2006, defendant filed a pro se motion entitled "Ex Parte Special Motion for Modification ... Pursuant to 18 U.S.C. § 3582(C)(2)." The Court denied the motion on January 23, 2006. Defendant filed a motion for reconsideration which was denied on February 6, 2006. Defendant then requested that a notice of appeal, filed September 20, 2006, be considered timely. The Court denied the request. See Order filed October 30, 2006.

Before the Court is defendant's motion for reconsideration. For the reasons

explained in the October 30, 2006 Order, even assuming defendant's allegation that he filed a notice of appeal on September 20, 2006, which the Court never received, the notice was not timely. Moreover, even if defendant timely appealed, any appeal from the orders denying his motion for modification and motion for reconsideration would not be taken in good faith as the Court lacked jurisdiction to consider defendant's motion for modification.

Accordingly, defendant's motion for reconsideration is DENIED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: December 13, 2006

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record and James Frank White, #32705-039, FCI Elkton, P.O. Box 10, Lisbon, OH 44432 on this date, December 13, 2006, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160